

# CLAIM AMENDMENTS

## Claim Amendment Summary

### **Claims pending**

- At time of the Action: Claims 1-35, 37-40, and 42-52.
- After this Response: Claims 7-9, 19-24, 27-29, and 55.

**Canceled or Withdrawn claims:** 1-6, 10-18, 25, 26, 30-54, and 56.

**Amended claims:** 7, 8, 9, and 19.

**New claims:** none.

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## Claims:

Claims 1-6 are CANCELED

7. (CURRENTLY AMENDED) ~~A method as recited in claim 1 further comprising~~ A method for measuring bandwidth between two entities on a communications network, the method comprising:  
via a communications network, receiving at least a pair of non-compressible packets having measurable characteristics;  
calculating bandwidth based upon, measurable characteristics of at least the pair of non-compressible packets;  
determining if the calculated bandwidth is outside a given range of believability for calculated bandwidth;

1 if the calculated bandwidth is determined to be outside the given range of  
2 believability, then querying a modem of an entity about a bandwidth setting of the  
3 modem when result of calculating bandwidth is outside a given range of  
4 believability.

5  
6 8. (CURRENTLY AMENDED) A method as recited in ~~claim 1~~ claim 7,  
7 wherein the queried modem is a modem of a receiving entity, further comprising  
8 storing result of calculating bandwidth within a list of recent bandwidth  
9 measurements.

10  
11 9. (CURRENTLY AMENDED) A method as recited in ~~claim 1~~ claim 7,  
12 wherein the queried modem is a modem of a sending entity, further comprising  
13 storing result of calculating bandwidth within a list of recent bandwidth  
14 measurements;  
15 finding a statistical derivation from such list, such derivation representing a  
16 most likely actual bandwidth between the two entities.

17  
18 Claims 10-18 are CANCELED.

1           19. (CURRENTLY AMENDED) A method for measuring bandwidth  
2 between two entities on a dynamic network, the method comprising:

3           via a dynamic network, sending at least a pair of non-compressible packets,  
4 the dynamic network being a communications network having no assurance that  
5 both packets of a pair of identical packets are handled in an identical manner while  
6 in transit on the communications network;

7           receiving a bandwidth calculation based upon measurements related to at  
8 least the pair of non-compressible packets;

9           selecting a file formatted for a given bandwidth that is equal to or less than  
10 the bandwidth calculation;

11           sending the selected file via the dynamic network.

12  
13           20. (PREVIOUSLY PRESENTED) A method as recited in claim 19,  
14 wherein each of the pair of non-compressible packets is approximately  
15 fragmentation-avoidance size.

16  
17           21. (PREVIOUSLY PRESENTED) A method as recited in claim 19,  
18 wherein each of the pair of non-compressible packets is highly entropic.

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20           22. (PREVIOUSLY PRESENTED) A method as recited in claim 19,  
21 wherein each of the pair of non-compressible packets is formatted for TCP.

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23           23. (PREVIOUSLY PRESENTED) A method as recited in claim 19,  
24 wherein each of the pair of non-compressible packets is formatted for UDP.  
25

1           **24. (PREVIOUSLY PRESENTED)**           A method as recited in claim 19,  
2 wherein the packets of the pair are equivalent in size.

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4           **25. (CANCELED)**

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6           **26. (CANCELED)**

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8           **27. (PREVIOUSLY PRESENTED)**           A method as recited in claim 19,  
9 before the sending, further comprising selecting one of the pair of non-  
10 compressible packets from a set of differing non-compressible packets.

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12           **28. (PREVIOUSLY PRESENTED)**           A method as recited in claim 19,  
13 before the sending, further comprising generating the pair of non-compressible  
14 packets.

15  
16           **29. (ORIGINAL)** A computer-readable medium having computer-  
17 executable instructions that, when executed by a computer, performs the method  
18 as recited in claim 19.

19  
20           Claims 30-54 are **CANCELED**.

21  
22           **55. (NEW)**           A method as recited in claim 19, wherein the dynamic  
23 network is the Internet.  
24  
25

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1 56. (CANCELED)  
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